

PATENT COOPERATION TREATY

From the:
INTERNATIONAL SEARCHING AUTHORITY

To:

WRAY & ASSOCIATES
Level 4 The Quadrant
1 William Street
PERTH WA 6000

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference
112608

Date of mailing
(day/month/year) 10 DEC 2004

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/AU2004/001393

International filing date (day/month/year)
13 October 2004

Priority date (day/month/year)
15 October 2003

International Patent Classification (IPC) or both national classification and IPC
Cl. 7 A01K 97/24, 97/18

Applicant
SZYMANSKI, John

1. This opinion contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|--|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the opinion |
| <input type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input checked="" type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input checked="" type="checkbox"/> | Box No. VIII | Certain observations on the international application |

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the IPEA/AU
AUSTRALIAN PATENT OFFICE
PO BOX 200, WODEN ACT 2606, AUSTRALIA
E-mail address: pct@ipaustalia.gov.au
Facsimile No. (02) 6285 3929

Authorized Officer

A. SEN
Telephone No. (02) 6283 2158

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/AU2004/001393

Box No. I

Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

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PCT/AU2004/001393

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 7-14, 18-21, 23	YES
	Claims 1-6, 15-17, 22, 24	NO
Inventive step (IS)	Claims	YES
	Claims 1-24	NO
Industrial applicability (IA)	Claims 1-24	YES
	Claims	NO

2. Citations and explanations:

NOVELTY (N): Claims 1-6, 15-17, 22, 24

(a) US D382628: Claims 1, 3-6, 15-17, 24

From figures, shaft is the long extension connecting coil to handle, coil with arcuate turns as in figures, more than one but less than two turns, plane of coil inclined to axis of shaft.

(b) US 3374570: Claims 1, 3-6, 15-17, 24

Shaft 11; smooth arcuate curves 17, 19, 24 etc; one and half turns; fig 2, plane on which first coil 17 rests is inclined to the axis of shaft 11

(c) US 2397916: Claims 1, 3-5, 15-17, 24

Shaft 5a; smooth circular curves; one and half turns; fig 4, plane on which first coil 7b rests is inclined to the axis of shaft 5a

(e) US 6138401: Claims 1, 3-5, 15-17, 24

Shaft 16; smooth circular curves; one and quarter turns; fig 2, plane on which first coil 18 rests is inclined to the axis of shaft 16

(f) US 2662331: Claims 1, 3-5, 15-17, 24

Shaft 4; smooth circular curves; one and quarter/half turns; fig 1, plane on which first coil 10 rests is inclined to the axis of shaft 4

(g) GB 2028072: Claims 1, 3-5, 15-17, 24

Shaft 2; smooth circular curves; more than one turn; plane on which first coil rests is inclined to the axis of shaft 2 as per page 1, lines 48/49; portion of coil extending outwards 3a as in figures

(h) US 2316500: Claims 1, 3-5, 15-17, 24

Shaft 5; smooth circular curves; one and quarter turns; fig 2, plane on which first coil 7' rests is inclined to the axis of shaft 5; portion of coil extending outwards 8' as in figure 2

Hence each document discloses all essential features of each claim listed alongside.

Continued in Supplemental Box

WRITTEN OPINION OF THE
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International Application No.

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: Box V

INVENTIVE STEP (IS): Claims 1-24

Claims 1-6, 15-17, 22, 24: as above

- (i) US 4086718: telescopic shaft 10
- (j) US 2948077: retention member 26
- (k) US 2739404: stand-off coil 10

Claims 8-12 each lack an inventive step when US 4086718 is combined with any one of US Des 382628, US 3374570, US 2397916, US 6138401, US 2662331, GB 2028072, US 2316500; Claim 13 lacks an inventive step when US 2948077 is combined with any one of US Des 382628, US 3374570, US 2397916, US 6138401, US 2662331, GB 2028072, US 2316500, US 6694664; Claims 18-20 each lack an inventive step when US 2739404 is combined with any one of US Des 382628, US 3374570, US 2397916, US 6138401, US 2662331, GB 2028072, US 2316500, US 6694664; such combination being obvious to the person skilled in the art (PSA).

In addition, Claims 8-13, 18-20 each also lack an inventive step when compared to each of US D382628, US 3374570, US 2397916, US 6138401, US 2662331, GB 2028072, US 2316500 on their own; Claims 2, 6, 7, 14, 21-23 each also lack an inventive step when compared to each of US 2397916, US 6138401, US 2662331, GB 2028072, US 2316500 on their own; Claims 2, 7, 14, 21-23 each also lack an inventive step when compared to each of US D382628, US 3374570 on their own. The invention defined in each claim relates to a parameters or structures that are merely matters of design choice when the general technical knowledge about the state of the art is used and hence they cannot contribute to patentable invention.

US 6694664 is a 'P' document and is discussed in Box VI

The internet site 'www.strikebacktackle.com.au' appears to disclose retrievers identical to the invention claimed. However, since the 'OPI' date of the site is unknown, nothing can be definitely said about lack of novelty and inventive step. The site has been cited as general information only from related art.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/AU2004/001393

Box No. VI Certain documents cited

1. Certain published documents (Rules 43bis.1 and 70.10)

<u>Application No. Patent No.</u>	<u>Publication date (day/month/year)</u>	<u>Filing date (day/month/year)</u>	<u>Priority date (valid claim) (day/month/year)</u>
US 6694664	24 February 2004	3 January 2003	3 January 2003

Claims 1-6, 8-12, 15-17, 22, 24 lack novelty; Claims 7, 14, 21, 23 lack an inventive step; Claim 13 lacks an inventive step when combined with US 2948077; Claims 18-20 lack an inventive step when combined with US 2739404

2. Non-written disclosures (Rules 43bis.1 and 70.9)

<u>Kind of non-written disclosure</u>	<u>Date of non-written disclosure (day/month/year)</u>	<u>Date of written disclosure referring to non-written disclosure (day/month/year)</u>

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/AU2004/001393

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. Claim 1 lacks clarity in that I am unsure as to the meaning of:

(a) 'plane of the engagement member is inclined to the central axis of the shaft'. Firstly, where does the engagement member start from, especially when there is a smooth transition from the shaft to the coils? Secondly, as there is more than one turn and each turn has a plane of its own, which plane do I consider? For the purpose of this report I have taken the plane to be the one that the first turn sits on and the first turn to commence from the point that it starts to bend away from the shaft axis.

(b) 'extends outwardly from the end of the shaft'. *Anything* at the end of a shaft must extend outwardly from it; why then have you defined this specifically in your claim?

I have a similar objection to Claim 2.

2. Claim 2 also lacks clarity in that there appears to be an extraneous ';' after 'coil' in line 20.

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PCT REQUEST

Original (for SUBMISSION)

0	For receiving Office use only	
0-1	International Application No.	
0-2	International Filing Date	
0-3	Name of receiving Office and "PCT International Application"	
0-4	Form PCT/RO/101 PCT Request	
0-4-1	Prepared Using	PCT-SAFE [EASY mode] Version 3.50 (Build 0002.163)
0-5	Petition The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty	
0-6	Receiving Office (specified by the applicant)	Australian Patent Office (RO/AU)
0-7	Applicant's or agent's file reference	112608
I	Title of Invention	RETRIEVAL AID
II	Applicant	
II-1	This person is	applicant and inventor
II-2	Applicant for	all designated States
II-4	Name (LAST, First)	SZYMANSKI, John
II-5	Address	71 Georgette Road Gracetown, Western Australia 6284 Australia
II-6	State of nationality	AU
II-7	State of residence	AU
IV-1	Agent or common representative; or address for correspondence The person identified below is hereby/ has been appointed to act on behalf of the applicant(s) before the competent International Authorities as:	agent
IV-1-1	Name	WRAY & ASSOCIATES
IV-1-2	Address	Level 4, The Quadrant 1 William Street Perth, Western Australia 6000 Australia
IV-1-3	Telephone No.	(8) 9216 5100
IV-1-4	Facsimile No.	(8) 9216 5199
IV-1-5	e-mail	wray@wray.com.au

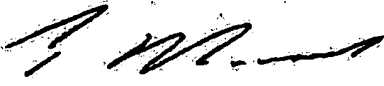
PCT REQUEST

Original (for SUBMISSION)

V	DESIGNATIONS	
V-1	The filing of this request constitutes under Rule 4.9(a), the designation of all Contracting States bound by the PCT on the international filing date, for the grant of every kind of protection available and, where applicable, for the grant of both regional and national patents.	
VI-1	Priority claim of earlier national application	
VI-1-1	Filing date	15 October 2003 (15.10.2003)
VI-1-2	Number	2003905645
VI-1-3	Country	AU
VI-2	Priority claim of earlier national application	
VI-2-1	Filing date	23 February 2004 (23.02.2004)
VI-2-2	Number	2004900883
VI-2-3	Country	AU
VI-3	Priority claim of earlier national application	
VI-3-1	Filing date	22 June 2004 (22.06.2004)
VI-3-2	Number	2004903404
VI-3-3	Country	AU
VI-4	Priority document request The receiving Office is requested to prepare and transmit to the International Bureau a certified copy of the earlier application(s) identified above as item(s):	VI-1, VI-2, VI-3
VII-1	International Searching Authority Chosen	Australian Patent Office (ISA/AU)
VII-2	Request to use results of earlier search; reference to that search	
VII-2-1	Date	15 October 2003 (15.10.2003)
VII-2-2	Number	2003905645
VII-2-3	Country (or regional Office)	AU

PCT REQUEST

Original (for SUBMISSION)

VIII	Declarations	Number of declarations	
VIII-1	Declaration as to the identity of the inventor	-	
VIII-2	Declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent	-	
VIII-3	Declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application	-	
VIII-4	Declaration of inventorship (only for the purposes of the designation of the United States of America)	-	
VIII-5	Declaration as to non-prejudicial disclosures or exceptions to lack of novelty	-	
IX	Check list	number of sheets	electronic file(s) attached
IX-1	Request (including declaration sheets)	4	✓
IX-2	Description	12	-
IX-3	Claims	3	-
IX-4	Abstract	1	✓
IX-5	Drawings	12	-
IX-7	TOTAL	32	
	Accompanying items	paper document(s) attached	electronic file(s) attached
IX-8	Fee calculation sheet	✓	-
IX-17	PCT-SAFE physical media	-	✓
IX-19	Figure of the drawings which should accompany the abstract	2	
IX-20	Language of filing of the international application	English	
X-1	Signature of applicant, agent or common representative		
X-1-1	Name	WRAY & ASSOCIATES	
X-1-2	Name of signatory	ERROL J HARWOOD	
X-1-3	Capacity	PATENT ATTORNEY	

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PCT REQUEST

Original (for SUBMISSION)

FOR RECEIVING OFFICE USE ONLY

10-1	Date of actual receipt of the purported international application	
10-2	Drawings:	
10-2-1	Received	
10-2-2	Not received	
10-3	Corrected date of actual receipt due to later but timely received papers or drawings completing the purported international application	
10-4	Date of timely receipt of the required corrections under PCT Article 11(2)	
10-5	International Searching Authority	ISA/AU
10-6	Transmittal of search copy delayed until search fee is paid	

FOR INTERNATIONAL BUREAU USE ONLY

11-1	Date of receipt of the record copy by the International Bureau	
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